

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA



JOSHUA DOUGLAS HATTEN

3471762

(Enter above the full name of the plaintiff
or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 3:24-cv-00559

(Number to be assigned by Court)

LAURAN PLYMALE,

JONATAN SWEENEY,

GLEN CONWAY, HUNTINGTON POLICE DEPARTMENT

CABELL COUNTY, STATE OF WEST VIRGINIA

(Enter above the full name of the defendant
or defendants in this action)

COMPLAINT

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes _____

No X _____

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: _____

Defendants: _____

2. Court (if federal court, name the district; if state court, name the county);

Southern District of West Virginia

3. Docket Number: _____

4. Name of judge to whom case was assigned:

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

6. Approximate date of filing lawsuit: _____

7. Approximate date of disposition: _____

II. Place of Present Confinement: West Virginia Division of Corrections and Rehabilitation.

A. Is there a prisoner grievance procedure in this institution?

Yes X No _____

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes _____ No X

C. If you answer is YES:

1. What steps did you take? _____

2. What was the result? _____

D. If your answer is NO, explain why not: The facility has no authority over the Prosecutor's Office.

III. Parties

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: JOSHUA DOUGLAS HATTEN #3471762

Address: One O'Hanlon Place, Barboursville, WV 25504

B. Additional Plaintiff(s) and Address(es): _____

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

- C. Defendant: Lauren Plymale
is employed as: Cabell County Prosecutor
at Cabell County Prosecutor's Office, Huntington, WV
- D. Additional defendants: Jonathan Sweeney, Glen Conway
Both are employed by the Cabell County Prosecutor's
Office in Huntington, WV.
Cabell County, State of West Virginia

IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

On 02/28/20, I was charged with murder and arson for an
accidental homicide and fire the previous day, 2/27/20. The night
the incident took place, Lanius Kendall and Michael Lucas both gave
written statements on scene which prompted Huntington Police detectives
to take both witnesses to headquarters for further questioning.
Both Lanius Kendall and Michael Lucas gave audio/video recorded state-
ments on the night of 2/27/20 per several officers' reports.
On 10/15/20, I waived my preliminary hearing in exchange for

IV. Statement of Claim (continued):

full disclosure of the State's discovery within 30 days. I also exercised my right to move forward with my case pro se at this time. Discovery took over nine months to be turned over by the state. When it was the only statements included were the handwritten statements given on scene by Mr. Kendall and Mr. Lewis, although several officers' report mention a second statement given by both witnesses.

This is very important because my defense is diminished capacity at the time of the offense. A forensic evaluation was con-

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

I would like each of the listed defendants be professionally reprimanded. I would like each year I spent incarcerated after all discovery was suppose to have been disclosed be financially compensated. I can't get that time of my life spent in Hell back, but I'd like to have my future financially secured.

ducted by Dr. Clifton Hudson, in which he would've found me to be 'NGRMI' had it not been for Larius Kendall's written statement. Mr. Kendall's statement in full says, "Around 2 P.M, yesterday Josh told me the only way he was leaving the house was by killing Theresa and burning the house down." Mr. Kendall's statement gave premeditation, so Dr. Hudson could not give a definitive answer to diminished capacity at the time of offense.

At the point I received discovery I began my efforts to retrieve the missing interviews not given in discovery. At that time, Ray Nolan was my standby counsel so I started there. I knew if I could get the full interview I'd most likely be able to impeach Mr. Kendall because I never had the conversation he'd wrote about. My standby counsel was ineffective in helping me obtain the interviews.

On approx. 4/11/21, I wrote a letter to the prosecutor on my case at the time, Lauran Plymale. In the letter I received from her in response she said, "The State has already provided you with all the witnesses statements. The items you're asking for do not exist." I attempted to follow up in court to no avail. Then Ms. Plymale was replaced by Mr. Jonathan Sweeny as my prosecutor.

I sent an official letter request to Mr. Sweeny on 2/7/24. ~~After~~ Mr. Sweeny also said he had no idea what I was talking about, even though I sent the officers' reports where they quote the interviews and describe transporting witnesses to HQ for questioning. Mr. Sweeny was then replaced by Glen Conway as prosecutor.

I first verbally asked Glen Conway on official record during a status hearing on 7/2/24. I Filed a Motion To Compel on 8/28/24 after receiving no response.

At no point did any of the prosecutors admit to having

the evidence. I was told repeatedly that it didn't exist.

And then after almost five years of trying to get the interviews, I do. They are damning to Mr. Kendall, Mr. Luas, and the officers' accounts. The witnesses were obviously lying. Mr. Kendall changed his story several times, and then says, "Theresa told a friend and the friend told me." So he lied about even having a conversation with me at all. I believe the prosecution knew these interviews would instantly turn the case in my favor so they hid them.

HPD officer Jason Davis's report severely misquoted the witnesses interviews to have the most harmful impact possible against me. These reports are what Dr. Hudson had to base his initial findings from. Had he been provided with truthful reports and all the evidence this case would've been over after his first report in 2021.

I can provide all evidence to support my claim.

The record of the Mr. Luas and Mr. Kendall interviews were not included in any of the HPD's evidence logs.

During the video interview of Mr. Kendall, Detective Jackson, broke took photographs of Mr. Kendall's phone. The pictures are nowhere listed in discovery and I still don't have them.

V. Relief (continued)):

VII. Counsel

- A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

- B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes _____ No X

If so, state the name(s) and address(es) of each lawyer contacted:

If not, state your reasons: If you want something
done...

- C. Have you previously had a lawyer representing you in a civil action in this court?

Yes _____ No X

If so, state the lawyer's name and address:

Signed this 7th day of October, 2024.

Joshua A. Hatten

Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/07/2024
(Date)

Joshua A. Hatten
Signature of Movant/Plaintiff

Signature of Attorney
(if any)